

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MALCOLM WASHINGTON,

Petitioner,

v.

9:19-CV-0695  
(LEK/TWD)

FRANKLIN CORRECTIONAL FACILITY,

Respondent.

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APPEARANCES:

OF COUNSEL:

MALCOLM WASHINGTON

Petitioner, pro se

16-B-2263

Franklin Correctional Facility

P.O. Box 10

Malone, NY 12953

HON. LETITIA JAMES

Attorney for Respondent

New York State Attorney General

The Capitol

Albany, New York 12224

LISA E. FLEISCHMANN, ESQ.  
Ass't Attorney General

THÉRÈSE WILEY DANCKS

United States Magistrate Judge

**DECISION and ORDER**

Petitioner Malcolm Washington seeks federal habeas relief pursuant to 28 U.S.C. § 2254. Dkt. No. 10, Amended Petition ("Am. Pet."). On August 14, 2020, this Court denied petitioner's second motion to expand the record. Dkt. No. 71, Decision and Order ("August Order").

In response to the August Order, petitioner filed the pending motion for reconsideration. Dkt. No. 75. In it, petitioner reasserts his conclusory arguments from his

discovery motion. *Id.* at 1. Specifically, petitioner emphasizes that he "disagree[s]" with the Court and that he has "submitted documented proof of all accusations [and] . . . show[n] a number of illegalities and attempted cover-ups." *Id.*

"The standard for . . . [reconsideration] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked . . . that might reasonably be expected to alter the conclusion reached by the court." *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995). Reconsideration is warranted only where controlling law has changed, new evidence is available, clear error must be corrected, or manifest injustice prevented. *Long v. U.S. Dep't of Justice*, 778 F. Supp. 2d 222, 228-29 (N.D.N.Y. 2011) (citing *Doe v. New York City Dep't of Soc. Servcs.*, 709 F.2d 782, 789 (2d Cir. 1983)); *Jackson v. Jimino*, 506 F. Supp. 2d 105, 108-09 (N.D.N.Y. 2007).

Petitioner has not provided any reason which justifies reconsideration of the Court's prior order. Instead he reasserts the same arguments from his discovery motion and argues that the Court's analysis is incorrect. Petitioner has not demonstrated that any controlling decisions or material facts were overlooked that might have influenced the Court's prior Order. Nor has he shown that any clear error of law must be corrected, or manifest injustice prevented. Petitioner's disagreement with this Court's decision is not a basis for reconsideration. *Finkelstein v. Mardkha*, 518 F. Supp. 2d 609, 611 (S.D.N.Y. 2007). As a result, reconsideration of the Court's decision is not warranted.

**WHEREFORE**, it is

**ORDERED** that petitioner's motion for reconsideration (Dkt. No. 75) is **DENIED**; and it

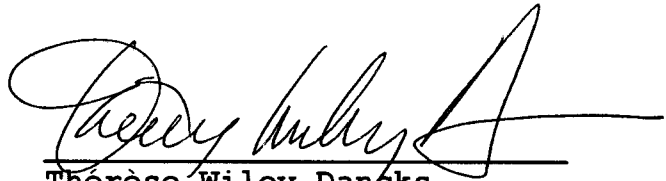
is further

**ORDERED** that no Certificate of Appealability ("COA") shall issue because petitioner has failed to make a "substantial showing of the denial of a constitutional right" as 28 U.S.C. § 2253(c)(2) requires; and it is further

**ORDERED** that the Clerk serve a copy of this Order on petitioner in accordance with the Local Rules.

Dated: August 28, 2020

Syracuse, New York

A handwritten signature in black ink, appearing to read 'Thérèse Wiley Dancks', is written over a horizontal line.

**Thérèse Wiley Dancks**  
**U.S. Magistrate Judge**